



INTER-GOVERNMENTAL ACTION GROUP AGAINST MONEY LAUNDERING IN WEST AFRICA

GIABA Reference Document

Anti-Money Laundering and
Combating the Financing of Terrorism

Process and Procedures

November 2009

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List of Abbreviations and Acronyms

AML	Anti-Money Laundering
AMLA	Anti-Money Laundering Agency
AML/CFT	Anti-Money Laundering and Counter Financing of Terrorism
AML R	Anti-Money Laundering Regulation
C	Compliant
CFT	Counter Financing of Terrorism
DAR	Detailed Assessment Report
DNFB	Designated Non Financial Businesses and Professions
ECOWAS	Economic Community of West African States
FATF	Financial Action Task Force
FI	Financial Institutions
FIU	Financial Intelligence Unit
FSA	Financial Stability Assessment
FSAP	Financial Sector Assessment Program
FSRB	FATF-Style- Regional Body
GIABA	Inter-Governmental Action Group Against Money Laundering in West Africa
IFI	International Financial Institution
IMF	International Monetary Fund
KYC	Know Your Customer
LC	Largely Compliant
MEQ	Mutual Evaluation Questionnaire
MER	Mutual Evaluation Report
ML	Money Laundering
MLA	Mutual Legal Assistance
MLAT	Mutual Legal Assistance Treaty
NA	Non Applicable
NBFI	Non Banking Financial Institution
NC	Non Compliant
OFC	Offshore Financial Center
PC	Partially Compliant
PEP	Politically Exposed Persons
ROSC	Report on Observance of Standards and Codes
ST	Suspicious Transaction
STR	Suspicious Transaction Report
TF	Terrorist Financing
WGMEI	Working Group on Mutual Evaluation and Implementation

Introduction

1. The Inter- Governmental Action Group against Money Laundering in West Africa (GIABA) is conducting the first round of mutual evaluations for its members based on the FATF Forty Recommendations 2003, the Nine Special Recommendations on Terrorist Financing, 2001, as well as the AML/CFT Methodology, 2004, as amended from time to time. Member States of GIABA have undertaken to subject themselves to a mutual assessment process in conformity with international standards for preventing money laundering and financing of terrorism as contained in Articles 12 to 14 of the GIABA Statute. This document sets out the process and procedures that are the basis for GIABA's first round of mutual evaluations, and covers the following issues:
 - (a) The underlying scope, objectives and principles;
 - (b) Changes in the FATF standards;
 - (c) The evaluation schedule;
 - (d) The procedures and steps in the evaluation process;
 - (e) Processes for follow-up of mutual evaluations;
 - (f) Joint evaluations; and
 - (g) IFI assessments of GIABA member States and co-ordination with the FSAP process.

I. Scope, basis and principles for GIABA evaluation¹

2. As set out in the Methodology, the scope of the evaluations will be to assess whether the necessary laws, regulations or other measures required under the essential criteria are in force and effective, that there has been a full and proper implementation of all the necessary measures, and that the AML/CFT system as implemented is effective.

3. There are a number of general objectives and principles that should govern mutual evaluations conducted by GIABA. The mutual evaluation process should:

¹ Please note that the GIABA Process and Procedures have been adapted from the FATF Process and Procedures.

- a) Produce objective and accurate reports of high standard in a timely way;
- b) Ensure that there is a level playing field, whereby mutual evaluation reports, including the summaries are as consistent as possible, especially with respect to the findings and ratings of reports produced by the FATF, FSRBS, and the IFIs;
- c) Ensure that there is equality of treatment, both in terms of process and results, for all countries assessed;
- d) Seek to ensure that the overall evaluation and assessment exercises conducted by all relevant organisations and bodies (FATF, IMF, World Bank, and other FSRBS) are not duplicative;
- e) Have sufficient clarity and transparency to encourage the implementation of higher standards, to identify and promote good and effective practices, and to alert governments and the private sector on areas of weakness or deficiency; and
- f) Be sufficiently streamlined and efficient so as to ensure that there are no unnecessary delays or duplication in the process from the beginning to the end of the evaluation process, and that resources are used effectively.

II. Change of FATF standards

4. Ongoing work within FATF Secretariat could lead to further changes to either the Recommendations or the Interpretative Notes, which in turn would require a change in the Methodology. GIABA Members that are being evaluated after the date of any changes will be evaluated on the basis of the Recommendations and Interpretative Notes and the 2004 Methodology as they exist on the date on which the country's mutual evaluation questionnaire is sent to the Secretariat. Where the standards are amended after the Secretariat has received the response to the MEQ, countries may choose to be evaluated on the revised standards. The MER report should state if an assessment was conducted based on new or recently amended standards .i.e. revised within six months prior to the on-site visit. To ensure that there is equality of treatment, if members have been evaluated prior to that date, and the relevant change has not been assessed or addressed, the revised elements of such members' systems could be assessed as part of the follow-up process.

III. Schedule for evaluation

5. The schedule of mutual evaluations for the first round and the number of evaluations to be prepared each year is primarily governed by the number of mutual evaluation reports (MER) that can be discussed at each Plenary meeting, and by the need to complete the entire round within a reasonable frame time.

6. GIABA members have reaffirmed the importance of the mutual evaluation process and the need to ensure that there is thorough and productive discussion of mutual evaluation reports during the Plenary meetings. Relevant factors in preparing the schedule for evaluation include the fact that GIABA is still in a learning process, most member States are yet to put in place appropriate structures required for the implementation of AML/CFT systems, as well as the funding and time required for the preparation and discussion of mutual evaluation reports at each Plenary.

7. The discussion of each report is likely to take about 4 hours of Plenary time, and members will normally discuss two evaluation reports per Plenary, but could, in exceptional cases, discuss three reports. GIABA will aim to discuss one report in May and one or two reports in November. This would mean that the mutual evaluation round may take about 4 to 5 years to complete.

8. A schedule of mutual evaluations showing the fixed or proposed dates for the on-site visits and the date for the Plenary discussions will be provided to the WGMEI and updated regularly. The criteria underlying the sequence of evaluations are:

- a. **The need to avoid duplication** – countries that have been recently evaluated by FATF or by the IFIs should not normally have to substantially duplicate that process by having another evaluation soon thereafter.
- b. **Preferred dates for onsite visits** – member States will be consulted on the possible dates for the on-site visits and this is taken into consideration in preparing the schedule.

IV. Procedures and steps in the evaluation process

Preparation for the on-site visit

9. A summary of the steps in the GIABA mutual evaluation process are set out in **Annex 1**. These steps are described more fully below:

10. The country will advise whether they wish to conduct the evaluation in English, French or Portuguese. The mutual evaluation questionnaire (MEQ) will be sent to the country being evaluated and the country must **forward their response to the MEQ to the Secretariat at least two (2) months** before the on-site visit.

11. The questionnaire format is intended to assist the country to provide key information for the on-site visit and form the basis for the initial outline draft of the MER to be prepared by the Secretariat. It does not ask detailed questions, but countries must set out fully how they meet each Methodology criteria in their MEQ response. It is very important that countries provide a full description of their AML/CFT system which covers all the essential criteria and other relevant matters. The MEQ response should be as complete as possible, and provide a detailed description (and analysis where appropriate) of the relevant measures, including appropriate citations from supporting laws or other material. All necessary laws, regulations, guidelines and other relevant documents should be available in the language of the evaluation and the original language, and these documents and the MEQ should be provided in an electronic format. If there is a joint evaluation with another body, the Secretariat will forward all the relevant documents to the assessors and the Secretariat of any other body participating in the evaluation.

12. Unless allowed under GIABA procedures, documents produced: (a) by an assessed country during a mutual evaluation exercise, (e.g. documents describing a country's regime or threats faced, responses to the Mutual Evaluation Questionnaire, or responses to assessors' queries); and (b) by the GIABA Secretariat or assessors (e.g. reports from assessors, draft Mutual Evaluation Reports etc.) should be treated as confidential and should not be made publicly available, unless the assessed country (for documents under (a) above) or the Secretariat (for documents under (b) above) consents to their release.

13. The assessors are selected by the Secretariat from a pool of trained assessors several weeks before the on-site visit. Evaluation teams should consist of four expert assessors (a legal expert, two financial experts and a law enforcement expert), principally drawn from GIABA members, the Secretariat, any

international organization, FATF, FSRB, or IFIs. In selecting assessors, the Secretariat should consider the expertise and background of each assessor, the language of the evaluation, the nature of the legal system (civil law or common law) and the specific jurisdiction (size and geographical location). The Secretariat will maintain a list of assessors from member States and each member will provide an expert for at least one mutual evaluation. It is expected that, where possible, and unless they have other relevant evaluation experience, assessors should have been to a training seminar for assessors before they conduct a mutual evaluation. The formal appointment of assessors to conduct a mutual evaluation is made by the Director General of GIABA, who will advise the country undergoing the evaluation of the persons participating in the evaluation at least three weeks before the on-site visit.

14. In joint evaluations, the assessment team is made up of experts from GIABA members or Secretariat, FATF, FSRB, international organizations or IFIs. The Secretariat may invite an expert from a FSRB² (on the basis of reciprocity, if the evaluated country agrees). Occasionally, FSRBs could also be permitted to take part as observers. This increases the cooperation with FSRBs, and in particular allows GIABA and other FSRBs that have less experience to give some of their assessors or their Secretariats “on the job training”, by having the opportunity to work with experienced assessors.

15. Due to the nature and importance of the mutual evaluation process which is a “peer review mechanism”, the Secretariat will work to ensure that the mutuality of the process is maintained.

16. Upon receipt of the response to the questionnaire, at least two months before the on-site visit, the Secretariat will send an e-mail to all GIABA members, FATF, and FSRBs inviting them to provide information regarding their experience of international co-operation with the country being evaluated or any other issues that they would like to see raised and discussed during the on-site visit. The invitation to FSRBs and their members would apply where they are willing to reciprocate by inviting GIABA members to provide the same type of information in relation to their mutual evaluations. A draft text setting out the type of information that is sought is attached as **Annex 2**. Responses should be received no later than 2 weeks before the on-site visit, and then made available to the assessment team and the assessed country.

² Participation (on a reciprocal basis) of experts from other international organizations that are conducting assessments could be considered on an exceptional basis.

17. The country must prepare a draft programme of meetings for the on-site visit and send it to the Secretariat as soon as possible and no later than one month before the on-site visit (see **Annex 3** for details of the types of authorities that will need to be included in the schedule of meetings). Where possible, meetings could be held in the premises of the agency/organisation being met, since this allows the assessors to meet the widest possible range of officers from the agency/organisation and to obtain additional information more easily. For this to be effective, appropriate travel time between meetings must be built into the programme. Travelling between venues can be time consuming and wasteful, it is therefore suggested that unless venues are in close proximity, there should only be 2 – 3 meeting venues per day.

18. Generally, interpretation and translation are issues that need to be carefully considered in finalizing the schedule for evaluations and the program for the onsite visit. Where necessary, the process of translation of relevant laws, regulations and other documents should start at an early stage, so that they can be provided to the assessment team on time. The evaluation team should also be provided with the relevant laws or other documents in the language of the country, since translation of technical texts are not always perfect. Professional translators should be made available during the on-site visit if the assessors are not fluent in the relevant language.

19. Based on the draft programme sent by the country, the country and the Secretariat will agree on the schedule of meetings prior to the on-site visit. The Secretariat may request such additional meetings as it considers necessary.

20. There may be some cases where additional follow-up questions could be desirable, or where other issues have come to the attention of the evaluation team which they want to raise with the country prior to the evaluation. The Secretariat may forward supplementary questions to the country at least four weeks prior to the on-site visit. The country must provide supplementary responses no later than one week prior to the visit.

21. In order to expedite the entire mutual evaluation process, and to ensure that there is sufficient time between the on-site visit and the discussion of the report in the Plenary, the Secretariat shall prepare an outline draft of the MER based on the response to the MEQ within two months after the receipt of the response. The initial draft will be provided to the assessors no later than one week prior to the on-site, and will also contain a list of issues that the Secretariat has identified and which need to be clarified or further discussed during the evaluation.

On-site visit

22. The on-site visit provides the best opportunity to clarify all issues relating to the country's AML/CFT system and assessors need to be fully prepared not to only examine the laws, regulations, guidelines and institutional measures, but to also review the effectiveness of the system. Assessors must note that different countries may adopt different approaches to meeting the FATF standards, and so need to be open and flexible, and seek to avoid narrow comparisons with their own national situations.

23. Experience has shown that a minimum of 7-10 days of meetings is appropriate for countries with AML/CFT systems that are not quite developed. Onsite visits allow for:

- one day preparatory meeting between the Secretariat and assessors;
- ten days of meetings with representatives of the country, including an oral de-briefing session; and
- two days where the Secretariat and assessors work on the draft outline MER, to ensure that all the major issues that were identified during the meetings are noted in the report, discussed and ratings for 40 + 9 Recommendations agreed on.

24. The total duration of the mission for a normal evaluation is therefore likely to take 10 – 14 days, but this could be extended for large or complex jurisdictions.

25. During the on-site visit, it is important that the country being evaluated and the specific agencies ensure that the appropriate staff is available for each meeting. It will also be useful if the team is provided with a specific meeting room for the duration of the on-site mission. The room should also have photocopying, printing and internet facilities.

26. The meetings with the private sector are an important part of the on-site visit. Therefore, the assessors should be given the opportunity to meet with the various representatives of private institutions and professional bodies without the presence of a government official. The team may also request that meetings with certain government agencies be restricted to those agencies.

Preparation of draft MER – post on-site

27. The period between the on-site visit and the discussion of the draft mutual evaluation report at the Plenary meeting should be a minimum of five months. The steps in finalising a draft report for discussion at a Plenary are as follows:

- a) Assessors to send their additional remarks on the draft MER (as discussed on-site) to the Secretariat;
- b) Preparation of a draft MER by the Secretariat, which is sent to the assessors for comment;
- c) Assessors to provide comments on the draft MER to the Secretariat;
- d) Revision of the draft report by the Secretariat based on these comments and the draft report then to be sent to the country;
- e) Country being evaluated to provide comments (see Annex 8 for authorities' response) to the Secretariat, which are forwarded to the assessors for their views. Within this month, the Secretariat will also have prepared the draft Executive Summary, sent this to the assessors, received their comments and provided the draft Executive Summary and the draft ROSC³ to the country for comment;
- f) Assessors to review the country's comments and liaise with the Secretariat on the changes that need to be made to the draft MER. At the same time the country should review the draft Executive Summary and ROSC and provide their comments to the Secretariat (which will be forwarded to the assessors);
- g) The assessors to review the country's comments on the Executive Summary and ROSC and liaise with the Secretariat on the changes that need to be made. The Secretariat revises the MER, the Executive Summary and ROSC based on the assessors comments;
- h) Where necessary, the assessment team (including the Secretariat) and the country meet by teleconference and/or face to face to further discuss the draft report. Any face to face meeting should occur before the Plenary and prior to any such meeting, the country must provide a second set of comments and other relevant material in writing to the assessment team;

³ The format for the Executive Summary is contained in the revised Handbook. In order to ensure consistency and to make the process as efficient as possible, the substantive text of the Executive Summary and the ROSC should be the same, though changes could be made. See Section XII for more details.

- i) Where necessary, the Secretariat to translate the draft MER;
- j) The Director General to nominate members of the Expert Review Group (ERG) from member States, international organizations, FATF members, FSRBs or IFIs to review the draft MER;
- k) The draft MER, the Executive Summary and ROSC are sent to all members and observers prior to Plenary. Where other assessment bodies are conducting AML/CFT evaluations/assessments, it is expected that they would reciprocate and provide copies of any such reports to GIABA. For IFI purposes, the IFI pro-forma review of the ROSC summary will be made prior to the plenary meeting, and comments provided to the country, the Secretariat and assessors.

28. The approximate time that is required for each of the steps described above is set out in Annex 1. Although the times suggested are not rigid rules, they would provide guidance on what is required if reports are to be prepared within a reasonable timeframe and in sufficient time for discussion at the meeting.

29. It is important that the assessors and the country respect the schedule for mutual evaluations as specified in Annex 1. Delays that could occur in some evaluations can significantly impact the ability of the Plenary to discuss the report in a meaningful way. The draft schedule of evaluations will always be prepared so as to allow enough time between the on-site visit and the Plenary discussion by agreeing to participate in the mutual evaluation process, the country and the assessors undertake to meet the necessary deadlines and to provide accurate responses, reports and other material required for the evaluation. It is proposed that where there is failure to comply with the agreed deadlines, the following actions could be taken depending on the nature of the default:

- a) Where the country fails to provide timely and sufficiently detailed response to the MEQ, the Director General may defer the mutual evaluation on-site visit and may write to the relevant Minister in the country. The Director General will inform the Plenary as to the reasons for the deferral, Plenary decision regarding the deferral maybe publicised.
- b) Where the country fails to provide a timely response to the draft MER, the Director General may write a letter to the relevant Minister in the country. Where the delay results in the report not being discussed, the

Director General will inform the Plenary as to the reasons for deferral⁴.

- c) Where an assessor fails to provide timely and sufficiently detailed report or response at any stage of the mutual evaluation process, the Director General will write a letter to the assessor's relevant Minister.
- d) Where the Secretariat fails to provide timely reports at any stage of the mutual evaluation process, the Director General may liaise with the Co-chairs of the WGMEI for extension of time.

V. The Expert Review Group (ERG) Process

30. The objectives of the ERG which meets immediately prior to the Plenary is to identify and highlight the key issues arising in each MER, as well as inconsistencies with other MERs, in order to enhance discussions and resolutions of those issues at the Plenary in an equitable manner. The ERG should identify the following issues:

- a. All remaining areas of disagreement between the assessed country and the assessment team, as well as the main issues behind these points;
- b. Inconsistencies with other MERs;
- c. Important areas deserving discussion in the Plenary; and
- d. Any issues that require interpretation/clarification of the FATF standards, the 2004 Methodology (including "horizontal issues") or regarding FATF procedures.

31. The Secretariat will prepare a short written report summarizing the ERG discussion, which will identify clearly the most important issues to be discussed at the Plenary. The report on the ERG discussion will help define and focus the order of the discussion at the Plenary. At the Plenary, all delegations will still be able to raise any issue with respect to the MER.

32. There are also a number of other objectives and principles that underlie the ERG's work:

⁴ A table setting out the timelines of the various steps in the evaluation process should be provided to the Plenary.

- a) The ERG has no decision-making powers on a mutual evaluation report or assessment. The Plenary is the only body that can take a decision on a mutual evaluation/assessment report;
- b) The ERG should not censor, overrule or “second-guess” the assessment teams, nor should the ERG function as a broker between the assessment team and country;
- c) The ERG will identify key issues for discussion in the Plenary taking into account any comments by the assessed country/assessment team/Secretariat, in particular all areas where the assessed country disagrees with the report or identifies inconsistencies with other reports. Delegations are expected to send written comments to the Secretariat in advance of the plenary meeting;
- d) The process must ensure that the MERs are consistent and of high quality, as well as create a more efficient and effective process for the Plenary discussions. Reviewing a MER of more than 150 pages including, annexes, and relevant laws will require a significant commitment from the members of the ERG;
- e) All GIABA mutual evaluation reports, including joint reports with FSRBs and assessment reports prepared by the IMF or the World Bank will be reviewed by an ERG prior to the GIABA Plenary discussion.

33. The practical arrangements for the ERG are as follows:

- a) For each Plenary, an ERG composed of 5 to 7 experienced experts from interested GIABA/FATF members (other than the assessed countries), one interested FSRB, and/or the IMF/World Bank will be set up to review the MERs to be discussed at the Plenary. The ERG will discuss each draft MER on its agenda in the presence of representatives of the assessed country, the Secretariat and the assessment team⁵. The ERG will be chaired by one of the Co-chairs of the Working Group on Mutual Evaluations and Implementation.
- b) The nomination of the experts should take into account regional balance, and expertise related to legal, financial, and law enforcement. The Secretariat will ensure that there is sufficient rotation in the participation in ERG to allow each GIABA member to participate in this process if they wish. The Secretariat shall maintain a general roster of experts to ensure participation of members in the ERG at each Plenary.

⁵ In the case of a report prepared by the IMF/WB, the IMF/WB staff who prepared the draft report should participate in this discussion.

- c) The Secretariat's report on the ERG discussion for the Plenary should be clear and self-explanatory. It should be distributed to the delegations as soon as possible, preferably before Plenary discussion of the report.
- d) The Secretariat has significant responsibility to ensure the quality and consistency of the ERG meetings and will provide an interface between the ERG, the assessment team and the country.

VI. The Plenary meeting

34. While it is anticipated that the country and the assessors should endeavour to agree on the draft mutual evaluation report prior to it being sent to delegations, there may be exceptional circumstances when the country's delegation, the assessors and the Secretariat will need to meet on the margins of the Plenary to try to agree on the final text of the MER and the executive summary. Given that the text of the ROSC will be the same as that of the executive summary, this can also be agreed at that time, and the final amendments of all the documents made available to the delegations as soon as possible. Any issue or wording that is not agreed on, should be presented to the ERG for discussion or if the issue is a minor one, in a separate document.

35. The procedure for the discussion of the draft mutual evaluation report and the executive summary (including a set of key findings⁶) at the Plenary meeting will be as follows:

- a. The assessors introduce themselves and one of the assessors chosen by the assessment team briefly presents the key issues from the report in high level terms. The team will have the opportunity to intervene or comment on any issue concerning the MER;
- b. The evaluated country makes its opening remarks;
- c. The Plenary discusses the issues raised in the report in a sequential order as follows:
 - i. The key issues identified by the ERG (to be presented by the Secretariat); and
 - ii. Any other issues presented from the floor.

⁶ The key findings will describe in 1-2 pages the key risks, the strengths and weaknesses of the system, and any overarching recommendations made to improve the AML/CFT regime of the country.

- d. The Plenary discusses the overall picture of the assessed country's AML/CFT regime based on the key findings in the Executive Summary and agrees on the language of the key findings.
- e. The MER and the Executive Summary are agreed on. If not agreed on, then the assessors, the country and the Secretariat should prepare amendments to meet the issues raised by the Plenary.

36. When discussing the reports, it must be recalled that once the draft report is agreed on, it becomes a report of GIABA and no longer the assessors' report. As such, the Plenary will make the final decision on the wording of any report, and will give careful consideration to the views of the assessors and the country when deciding on the wording to adopt. In this regard, and taking into account the need to ensure consistency, the Plenary should carefully consider the text and intervene as and when necessary.

37. The MER and the executive summary should be discussed at the Plenary, and if the texts are agreed, then they should be adopted by the Plenary, subject to checks for typographical or similar errors. If the text is not agreed, then the assessors, the country and the Secretariat should revise the document and prepare an amended version which can be further discussed by the Plenary as soon as possible.

38. Where substantive changes are required, either because additional information is required to be added, or the MER and the executive summary have to be substantially amended, then the Plenary could decide to: (a) defer the adoption of the reports, and agree to have further discussion of the amended versions of the reports at the next Plenary or (b) where the required changes are less significant, adopt the reports subject to the reports being amended, and the amended reports being approved through a written process. The Secretariat would be responsible for ensuring that all the changes agreed by the Plenary have been made.

39. Following the discussion of the reports, and prior to the formal adoption, the Plenary should discuss and decide on the nature of the follow-up measures that would be required.

VII. Publication and other Procedures following the Plenary

40. Following the discussion of the MER, the executive summary or the ROSC at the Plenary meeting, the Secretariat will amend all documents as necessary. As

the MER is likely to be a voluminous document, it may be difficult to revise it at the Plenary, and prepare a final version, though this should be done where possible. If it is not possible, then the Secretariat will forward the revised version to the country within one week of the Plenary. However, the executive summary is a short report and therefore should be agreed on and finalised at the Plenary. This would have the important advantage that it could be published at the time of the Plenary, thus giving timely publicity to an important part of GIABA's work. The Executive Summary and the report will be published on GIABA's website, and the country would be free to publish it as well. GIABA will also issue a press release on the mutual evaluation report.

41. Within three weeks of the receipt of the final version of the MER from the Secretariat (which may be during or after the Plenary), the country must confirm that the MER is accurate and advise on any typographical or similar errors in the MER. At this time, the final version of the ROSC will be sent to the IFIs. This would ensure that the whole mutual evaluation process can be completed in an expeditious manner.

42. There will be an automatic publication of GIABA's mutual evaluation reports and executive summaries as soon as they are adopted by the Plenary. Mutual evaluation and the executive summary reports will be published on the GIABA website.

VIII. Follow-up process⁷

43. There are **three types of follow-up** that could occur following the discussion and adoption of a mutual evaluation report. **The first follow-up process** provides that members that are not assigned regular or enhanced-follow up should submit *biennial update*⁸ of their progress on measures taken to address the deficiencies identified in their MERs or other actions taken to enhance their AML/CFT regime, starting **two years after their MERs are adopted**.

44. **The second process** is the *regular follow-up which* will apply when the mutual evaluation report shows that there are significant deficiencies in the country's AML/CFT system. **The third process** is *the enhanced follow-up*. The enhanced follow-up process is based on the FATF's traditional policy that deals

⁷ The table for the follow-up process provides detailed information as described in Annex 4.

⁸ Biennial update means every two years.

with non-complying members⁹. A template for the follow-up report is attached as **Annex 5**.

Biennial update

45. The biennial update process allows members to update the Plenary every two years on recent actions they have taken and the results achieved, as set out below:

- a) No later than two years after the adoption of the MER, the assessed country must provide a succinct updated report to the Secretariat describing the new measures that have been adopted and implemented to deal with the identified deficiencies in relation to any of the 40+9 Recommendations that were rated partially compliant (PC) or non-compliant (NC). This should always include all the updated data or statistics as required under Recommendation 32.
- b) The Secretariat will review the information provided and draft a short summary report. Where necessary, additional information can be requested from the country.
- c) The biennial update reports of specific countries may be discussed in Plenary based on the recommendation of the Secretariat or the request of the country.

Regular follow-up

46. A regular follow-up process will apply where the mutual evaluation report shows that there are significant deficiencies in the country's AML/CFT system. The regular follow-up process should be applied by the Plenary in the following circumstances:

- a) Where any of the core Recommendations¹⁰ 1,5,10,13, or Special Recommendations II or IV are rated either PC or NC; or
- b) Where the Plenary so decides.

⁹ An updated list of countries in the follow-up process will be provided to WGMEI at every Plenary.

¹⁰ The core Recommendations as defined in the FATF procedures are R. 1, R. 5, R. 10, R. 13 and SRs. II & IV. The key recommendations are R. 3,R.4,R.23,R.26,R.35,R.36, and R. 40, and SRs. I, SR.III, and SR. V.

47. The normal first step in the process would be that two years after the MER is adopted, the assessed country would provide information on the actions it had taken or is taking to address the factors/deficiencies underlying any of the 40+9 Recommendations that are rated partially compliant (PC) or non-compliant (NC). *However, as most member States have weak or non-existent structures, an expedited follow-up process will be applied during the first round of mutual evaluation.* In which case, each member is expected to submit follow up report one year after its MER is adopted.

48. Where the Plenary decides that there should be a follow-up, it should also decide which steps in the follow-up process should be applied and the timing of the necessary action. At any Plenary, at which a follow-up report is discussed, there would be three possible options for Plenary discussions:

- a. **The Country has not taken any satisfactory step to deal with the identified deficiencies** – the Plenary could then decide to apply an enhanced follow-up process or could seek follow-up reports at more regular intervals.
- b. **The country has taken steps to deal with the deficiencies and is making satisfactory progress but needs further time before it could be considered for removal from the process** – the Plenary could ask the country to provide a further report at a future Plenary.
- c. **The country has taken sufficient action to be considered for removal from the process** - and in the opinion of the Plenary, it is necessary that the country has an effective AML/CFT system in force, under which the country has implemented the Recommendations listed below at a level essentially equivalent to a “C” or “LC”, taking into consideration that there would be no re-rating:
 - Money laundering and terrorist financing offences (R.1 & SR. II);
 - Freezing and confiscation (R. 3 and SR. III);
 - Financial institution secrecy (R. 4) and customer due diligence (R. 5);
 - Record keeping (R.10);
 - Suspicious transactions reporting and the FIU (R.13, 26 and SR. IV)
 - Financial sector supervision (R.23); and
 - International cooperation (R. 35, 36, and 40 and SR. I & V).

49. Plenary, should however retain some limited flexibility with regard to those Recommendations listed above that are not core Recommendations if substantial progress has also been made to the overall set of Recommendations that were rated PC or NC. Follow up reports shall be discussed by the WGMEI, which will review any progress made by the reporting country and make recommendations to the Plenary on the next action to take.

50. The Plenary will discuss reports that warrant its attention where substantive decisions need to be made, particularly reports that fall under paragraph 48 (a) or (c) above, or where a country is subject to enhanced follow-up. Routine interim follow-up reports will not necessarily be discussed by the Plenary, but will be available as an information paper. The assessed country will provide a short interim follow-up report to the Secretariat setting out remedial actions that it has taken and a proposal to the Plenary at which it would wish to report back. Where the Secretariat felt that a country had failed to make adequate progress, the Secretariat would prepare a short summary paper and present the issues to the Plenary, and the Plenary, would have a discussion on whether a more expedited follow-up or another approach should be taken.

51. If the Secretariat did not have concerns about the progress made, then the country's interim report would be provided as an information item to the WGMEI. If issues are raised in WGMEI, then the WGMEI Co-chairs report would contain a short proposal to the Plenary on when the country would wish to report back again, which could be agreed as part of the normal process.

52. Under paragraph 48(c), the process for consideration of an application to move from regular follow-up to biennial update within three years after the adoption of the MER, or so soon thereafter would be as follows:

- The country would indicate that it had in its view met the conditions set out in paragraph 48 (c) for removal. The country would provide a full report, and all necessary laws, regulations, including relevant data and other information for assessing effectiveness, at least two months before the Plenary at which it would seek to be removed from regular follow-up;
- The Secretariat would then prepare a more detailed analysis of the progress made by the country for the next Plenary;
- The report would analyse the actions taken by the country to resolve the deficiencies or factors underlying each of the above Recommendations that were rated PC or NC, and would indicate

the extent to which the deficiencies had been resolved, and indicate for each relevant Recommendations whether it believed sufficient action had been taken;

- In assessing whether sufficient progress had been made, effectiveness would be taken into account to the extent possible. The exercise would be in the nature of a “desk review”;
- In preparing the detailed analysis, the Secretariat could consult the original assessors where they are available. The detailed analysis should be provided to the country for its comments before it is sent to Plenary delegations;
- Plenary will always have the discretion to allow further time before removal from regular follow-up process to biennial up-date where this is necessary.

Enhanced follow-up

53. The enhanced follow-up process is an additional and graduated step in the follow-up process. The following are the steps to be taken in applying the enhanced follow-up process:

- a) The Secretariat will send a letter to the relevant minister(s) in the member State drawing their attention to the non compliance with the FATF Recommendations;
- b) A high-level mission that may include representatives from other member States would visit the member State to reinforce the need for compliance with the FATF Recommendations. This mission would meet with Ministers and senior officials;
- c) In the context of the application of Recommendation 21 by its members, GIABA will issue a formal statement to the effect that the member State is insufficiently in compliance with the FATF Recommendations, and recommend appropriate action, while considering whether additional counter-measures are required;
- d) Suspending the member State’s membership of GIABA until the Recommendations have been implemented;
- e) Terminating the membership of the jurisdiction; and

- f) Requesting FATF to apply sanctions at the international level.

54. The practical modalities for the application of the enhanced follow-up process are:

- (a) For steps (a) to (c) above, the WGMEI would propose to the Plenary through the Secretariat the steps which should be taken in relation to the non-complying member, and the Plenary would then decide the parameters for action. Thus the Secretariat could be authorised to take any of the steps in (a) to (c), and report progress to the Plenary through the WGMEI.
- (b) If there is a continued failure to comply significantly with the Recommendations, the WGMEI, through the Secretariat could propose to the Plenary that steps (d), (e), and/or (f) be taken.

55. As with MER and the Executive Summary, GIABA's publication policy would apply to any follow-up actions and the result of that action would be published. With regard to biennial updates and interim follow-up reports, if requested, by the country, a link will be provided on the GIABA website to a specified website in the country for the publication of these follow-up reports and any other relevant information or action taken to enhance the AML/CFT system. The detailed analysis report prepared at the time the country is removed from the follow-up process will be placed on the GIABA website with the following introductory statement:

“This report provides an overview of the measures that (*name of country*) has taken to address the major deficiencies relating to Recommendations rated NC or PC since its last mutual evaluation. The progress shown indicates that sufficient action has been taken to address those major deficiencies, and in particular those related to Recommendations (*state applicable Recommendations*). It should be noted that the original rating does not take into account the subsequent progress made by the country”.

IX. Evaluation of New Members

56. Where a potential new member undergoes a first mutual evaluation and in order to assess whether it meets the criteria for GIABA membership, the

procedures laid out in sections I to VII of this document will apply. Where the membership criteria are not met, then the Plenary will need to put in place a process whereby it can review any progress that is made and decide whether the country should become a member. If the criteria for membership are fully met, and the country is admitted as a GIABA member, the Plenary may apply any of the steps in GIABA's follow-up process (biennial, regular or enhanced follow-up) as it deems fit.

X. Participation of FATF in GIABA Evaluations

57. Given that FATF evaluation procedure has been quite successful to date, it is proposed that GIABA conducts evaluations from time to time with the participation of FATF, where possible, based on agreed terms. In the case of all members, GIABA would be the principal organiser, and would provide three assessors, while FATF could provide one assessor.

58. GIABA procedures for preparing the draft MER should be the same as for all other GIABA mutual evaluations, with the report being adopted and finalised at GIABA Plenary. This process already allows for considerable FATF input into the exercise, since an expert from the FATF Secretariat will participate at every step of the process.

XI. Assessments of GIABA members by the International Financial Institutions (IFIs)

59. GIABA is responsible for the conduct of mutual evaluations for all its members without exception including any follow-up that may be required. This responsibility can only be overridden at the discretion of the GIABA Plenary on a case by case basis.

60. Periodically, an IFI (IMF or World Bank) may inform GIABA on a timely basis of their intention to conduct AML/CFT assessments of a limited number of GIABA member(s) consistent with their Financial Sector Assessment Program (FSAP) schedule. At the Plenary, GIABA will consider this information and decide which GIABA members, if any, will be assessed by an IFI. Only members that wish to be assessed by an IFI should be considered in this way. There should be flexibility about the number of such assessments to be conducted by IFIs annually in order to afford GIABA's assessors an opportunity to participate and acquire skills in the conduct of mutual evaluations.

61. Where an IFI conducts an AML/CFT assessment of a GIABA member as part of the mutual evaluation process, the following procedures will apply:

- a) An IFI staff will send the draft Detailed Assessment Report (DAR) and Report on the Observance and Codes (ROSC) of the GIABA member to GIABA Secretariat for transmission to Plenary delegations within the timeframe specified under GIABA mutual evaluation procedure.
- b) The timing for the finalization of the DAR and ROSC would depend on the schedule of the Article IV and Executive Board discussions. Draft DAR and ROSCs would be provided to GIABA in advance of the Executive Board discussion under normal circumstances. However, there may be exceptional cases where the IFIs would need to complete the DAR and ROSC at short notice and without GIABA Plenary review. If such a situation arises, the IFIs would enter into a dialogue with GIABA to explore ways to adopt these reports as GIABA mutual evaluation report. If an agreement cannot be reached, then GIABA will need to consider whether or not the assessment can be accepted as a mutual evaluation.
- c) The assessors¹¹ would be available at GIABA Plenary to present the report and ROSC and to respond to questions as part of the GIABA mutual evaluation process.
- d) In the case of a draft DAR and ROSC, the IFI assessors should take account of the views expressed by GIABA members and modify the DAR and ROSC as appropriate. The IFI assessors, would nonetheless, retain ultimate responsibility for the contents of the IFI DAR and ROSC.
- e) Significant policy issues with respect to analysis, ratings or recommendations that arose in the course of discussions of an IFI report could be reviewed by GIABA.
- f) The DAR and the ROSC would be treated in the same way as if GIABA had conducted the evaluation. The DAR and the ROSC would be

¹¹ Normally the whole AML/CFT assessment team, including the team leader, will be present, though it is recognised that in exceptional cases, it may not be possible for an assessor to be present.

adopted as GIABA's mutual evaluation report and executive summary with necessary modification.¹²

g) The GIABA Plenary would still have to approve an IFI assessment of a GIABA member for adoption as a mutual evaluation.

62. As part of the review of its mutual evaluation process and procedures, GIABA may review the process outlined above to ensure that it is working effectively and efficiently.

63. Where the IFIs conduct an assessment of a GIABA member, the ROSC that is prepared by the IFIs should, in addition to any other text that is normally included for the ROSC should also contain the following text:

“The views expressed in this document are those of the assessment team and have been discussed (*and adopted*) by GIABA in the context of the GIABA's discussion of the report on (*country*), but do not necessarily reflect views of the government of (*country*) or the Boards of the IMF or World Bank. It is based on information available at the time it was completed on (*date*).

XII. Co-ordination with the FSAP process

64. The basic products of the evaluation process are the MER, and the executive summary (which are virtually identical to the DAR and the ROSC). The ROSC is included in the Financial System Stability Assessment (FSSA) reports issued by the IMF, which may be published¹³. GIABA members may choose to participate in the IMF/World Bank FSAP process, and the product of that process is an IMF - FSSA or a stand-alone assessment, or a World Bank-FSAP. As regards AML/CFT work, FSSA reports are in two parts: part I - an overview of financial sector issues (1/2 – page summary/ key findings on AML/CFT), part II - ROSCs. Where members have decided that they will participate in the FSAP process, combined with a GIABA mutual evaluation, they should coordinate with the GIABA Secretariat and IFI staff on the timing of the FSAP and the mutual evaluation at the earliest possible date.

¹² The MER and executive summary would be treated in the same way as if GIABA had conducted the evaluation, and the applicable procedures would be the same when appropriate e.g. Plenary discussion, follow-up, publication etc.

¹³ A fuller description of the IFI documentation used in the FSAP/OFC programmes is set out in FATF-XV.PLEN/49.

65. The process regarding ROSCs is as follows:

- The draft ROSC (which is now more or less identical to the executive summary to be adopted by GIABA) is agreed by the country and the assessors, and the ROSC is sent to the IMF for its “pro-forma review”. The Fund will review the mutual evaluation report and the ROSC and ascertain whether the summary fairly reflects the contents of the MER. No judgment is made regarding the factual findings or the substance of the MER conclusions, rather the IMF reviews consistency between the MER and the summary. It then provides its comments at least one week before the Plenary, which the assessment team/country is free to accept or not. Following the Plenary, the ROSC is then finalized and provided to the Fund. As a general rule, the ROSC (including the tables and authorities comments) should not exceed 15 pages.
- In order to prevent duplication of work and to ensure consistency, the substantive text of the ROSC will be the same as that of the Executive Summary. The pro-forma changes that need to be added to the text of a ROSC would be as follows¹⁴:

“This Report on the Observance of Standards and Codes for the *FATF 40 Recommendations for Anti-Money Laundering and 9 Special Recommendations Combating the Financing of Terrorism* was prepared by the Inter-governmental Action Group against Money Laundering in West Africa. The report provides a summary of the AML/CFT measures in place in [*Country*], the level of compliance with the FATF 40+9 Recommendations, and contains recommendations on how the AML/CFT system could be strengthened. The views expressed in this document have been agreed by GIABA and [*Country*], but do not necessarily reflect the views of the Boards of the IMF or World Bank.”

- Append a table of ratings of compliance with each of the FATF 40+9 Recommendations and a table of prioritized key evaluator recommendations.
- Append the authorities’ comments at the end the document, if any.

66. For the purpose of the FSSA or FSAP, the IMF/World Bank requires a “key findings” document, which is a maximum of 300 words summary of the ROSC.

¹⁴ See ROSC template in Annex 7

This key findings text would also serve as introductory text in the executive summary/ROSC. This document is prepared by the GIABA Secretariat solely for the purposes of the FSSA/FSAP, and is not discussed within GIABA. The key findings should be agreed with the country being assessed, if possible, before being provided to the IMF/World Bank. In the event that it is not possible to agree on this document, it should be provided to the IFIs with the country's comments.

GIABA Secretariat
November, 2009.

Annex 1
**OUTLINE SCHEDULE FOR THE GIABA MUTUAL EVALUATION
PROCESS**

DATE	WEEK	ACTION TO BE TAKEN
Before the on-site visit		
As soon as possible		1. Agree date for on-site visit and for Plenary discussion of mutual evaluation report. Country to advise Secretariat about the official language (English, French, or Portuguese) to be used for the evaluation.
At least 2 months before the on-site visit	-8	1. Response to questionnaire together with copies of all relevant laws, regulations and other documents (in the original language and the language of the evaluation) returned to Secretariat (in electronic form). The Secretariat will forward these documents to the assessors and any FATF-styled regional body (FSRB) participating in the evaluation. 2. Secretariat to send e-mail to GIABA members and FSRBs (on the basis of reciprocity) regarding their experiences concerning international co-operation with the assessed country.
At least 1 month before the on-site visit	-4	1. Assessed country to provide the Secretariat with a draft programme for the on-site visit. Secretariat and country to finalise the programme. 2. Where necessary, Secretariat to send supplementary questionnaire to assessed country.
At least 3 weeks before the on-site visit	-3	1. Director General/Secretariat to advise assessed country about the assessors appointed by GIABA Secretariat, and any FSRB representatives.

No later than 1 week prior to the on-site visit	-1	<ol style="list-style-type: none"> 1. Secretariat to provide GIABA assessors and any FSRB representatives with an outline of the mutual evaluation report (MER) based on the material received from the country. 2. Country to provide response to supplementary questionnaire (if any). 3. Final date by which GIABA members and FSRBs provide information on their international co-operation experiences with the assessed country. The information is provided to the assessment team and the assessed country.
ON-SITE VISIT		
First day	0	1. Assessors and Secretariat to discuss draft outline report and issues relevant to the mutual evaluation.
Up to 10 days	0	<ol style="list-style-type: none"> 1. Meetings with all government and private sector bodies. 2, De-briefing session for only government officials on the last day.
Next 1-2 days	0	1. Assessors and Secretariat to work on draft MER, and prepare draft where all major issues and recommendations are noted, and ratings agreed on.
After the on-site visit		
Within 2 weeks of on-site visit	2	1. Assessors to provide Secretariat with written report on any additional findings
Within 4 weeks following receipt of last assessor's report (6 weeks after on-site)	6	1. Secretariat to prepare draft MER to send to assessors for their comments
Within 2 weeks of	8	1. Assessors provide comments on the draft MER to the Secretariat and other assessors

receipt of draft report		
Within 1 week of receipt of last examiner's comments	9	1. Revised draft report sent to country for comments
	11	1. Secretariat to send Executive Summary of MER to assessors.
Within 1 month of country receiving draft report	13	1. Comments from country sent to Secretariat and forwarded to assessors. 2. Assessors provide comments on the Executive Summary, which is sent to the country, along with draft ROSC (ROSC is same text as summary, with pro-forma paragraphs added)
Within 2 weeks of receipt of country comments	15	1. Assessors advise on country comments and first draft report (for Plenary) prepared and sent to country and assessors. 2. Comments from country on the Executive Summary and ROSC sent to Secretariat, and Secretariat makes changes as appropriate.
Minimum – 8 weeks before the Plenary	-8	1. Where the IFIs are conducting an assessment of a GIABA member, the draft DAR to be provided to the GIABA Secretariat. 2. Where necessary, the assessment team and the country meet by teleconference and/or face to face.
Minimum – 6 weeks before the Plenary	-6	1. The Secretariat translates and edits the draft MER.
8 weeks before the Plenary –		1. The Director General requests member States, IFIs, FATF members, or any interested FSRB to provide the name of an expert for the ERG meeting. It is expected that a minimum of five experts will be required for each ERG.

Minimum - 4 weeks before Plenary	17+	<ol style="list-style-type: none"> 1. Secretariat sends draft report (MER or DAR), including summary, to all delegations. 2. Secretariat sends draft ROSC to IMF for pro-forma review, with a copy to country and assessors.
Minimum - 1 week before Plenary	20+	<ol style="list-style-type: none"> 1. IMF provides comments after pro-forma review. These comments are provided to the country and examiners.
PLENARY WEEK		
		<ol style="list-style-type: none"> 1. Secretariat to meet with the ERG, assessors¹⁵ and the assessed country to clarify and highlight any issues concerning the MER as well as discussion of any written comments received and any other key issues that ERG participants wish to raise. 2. One of the WGMEI co-chairs acts as chair for the meeting. The ERG & the Secretariat prepare a written report for Plenary discussion.
		<p>Main discussion of MER and Executive Summary –</p> <ol style="list-style-type: none"> 3. The Plenary agrees and adopts the MER and the executive summary. 4. If MER and summary are not agreed, then assessors, country and Secretariat must revise and prepare amendments to meet issues raised by the Plenary. 5. Revised version to be provided to the Plenary.
		<ol style="list-style-type: none"> 6. Final discussion and adoption of MER and Executive Summary, if not previously agreed. 7. Plenary to discuss when the country will provide follow-up report, the type of follow-up applicable to the country and any additional follow-up measures that may be required. 8. The Executive Summary is agreed and available for

¹⁵ In the case of a report prepared by the IMF/WB, the IMF/WB staff who has prepared the draft report should participate in the discussion.

	publication. If possible, the MER should also be finalised before the end of Plenary.
POST PLENARY	
The week following the Plenary	1. The Secretariat prepares revised MER based on the agreed amendments made during Plenary discussion and sends to country.
Within 3 weeks after the Plenary	<p>1. Country confirms report is accurate and/or advises of any typographical or similar errors in MER.</p> <p>2. Reports are automatically published as soon as the reports are adopted by the plenary.</p> <p>3. Mutual evaluation reports will be published on the GIABA website.</p> <p>4. Final version of ROSC is sent to IFIs.</p>

Annex 2

Template e-mail to enhance international co-operation

GIABA and FSRB members are invited to notify the GIABA Secretariat of any issues that they would like to see raised and discussed during the mutual evaluation on-site visit of [Country A]. Countries that have previously faced difficulties relating to parts of the AML/CFT system in [Country A] should inform the Secretariat about such issues. Countries are invited to set out their experiences in the following areas:

- Mutual legal assistance and extradition, or FIU, regulatory or other requests for international co-operation. Please advise on your experience with [Country A] over the last 4 years, including:
 - a) number of requests made and answered;
 - b) number of requests refused (including the nature of the request and the reasons for refusal);
 - c) quality of responses;
 - d) improvement or deterioration in quality of responses or in response time;
 - e) the nature of any specific problems experienced, including details of the case, (offence(s) or other inquiry, type and date of request; date of request and time period for responding)

- Other issues: Please advice of any other specific structural/legislative/regulatory deficiencies (note specific Methodology criteria) that obstruct effective co-operation.

Any responses received will be shared with the assessment team and the assessed country.

Annex 3

List of Ministries, Other Government Authorities, Private Sector Representatives and Others to meet during on-site visits

During the on-site visit, examined countries should organise meetings with a range of government Ministries and agencies, as well as the private sector. In all AML/CFT evaluations/assessments missions, the following authorities and businesses should be visited:

Ministries:

- Ministry of Finance;
- Ministry of Justice, including central authorities for international co-operation;
- Ministry of Interior;
- Ministry of Foreign Affairs;
- Ministry responsible for the law relating to legal persons, legal arrangements and non-profit organisations;
- Other bodies or committees to co-ordinate AML/CFT action.

Criminal justice and operational agencies:

- The FIU;
- Law enforcement agencies including police and other relevant investigative bodies;
- Prosecution authorities including specialised confiscation agencies;
- Customs service;
- If relevant - specialised drug agencies, intelligence or security services, tax authorities;
- Task forces or commissions on ML, FT or organised crime.

Financial sector bodies:

- Ministries or agencies responsible for licensing, registering or otherwise authorising financial institutions;
- Supervisors of financial institutions, including the supervisors for banking and other credit institutions, insurance, and securities and investment;

- Supervisors or authorities responsible for monitoring and ensuring AML/CFT compliance by other types of financial institutions, in particular bureaux de change and money remittance businesses;
- Exchanges for securities, futures and other traded instruments;
- If relevant, Central Bank;
- The relevant financial sector associations, as well as a representative sample of financial institutions (this could include both senior executives and compliance officers, and where appropriate internal auditors);
- A representative sample of external auditors.

DNFBP and other matters:

- Casino supervisory body;
- Supervisor or other authority or SRO responsible for monitoring AML/CFT compliance by other DNFBP;
- Self-regulatory organisations (SRO) for professionals such as lawyers, notaries and accountants;
- Registry for companies and other legal persons, and for legal arrangements (if applicable);
- Bodies or mechanisms that oversight non-profit organisations, for example tax authorities (where relevant);
- Any other agencies or bodies that may be relevant;
- A representative sample of professionals involved in non-financial businesses and professions (managers or persons in charge of AML/CFT matters (*e.g.* compliance officers) in casinos, real estate agencies, precious metals/stones businesses as well as lawyers, notaries, accountants and any person providing trust and company services).

Annex 4

GIABA Follow-up Procedure

Circumstances	Biennial update (2 years)	Regular Follow-up	Enhanced Follow-up
<p>Start of the process and frequency</p>	<p>1. After the adoption of the MER by the Plenary and the country is not required to report under the regular follow-up or enhanced follow-up;</p> <p>2. When Ratings for Key Recommendations are PC or NC but country has taken sufficient steps to implement the Recommendations at a level considered to be essential equivalent to C or LC.</p>	<p>1. Significant deficiencies exist in AML/CFT systems as shown in the MER;</p> <p>2. The Ratings for Core Recommendations are either PC or NC;</p> <p>3. If the Plenary so decides.</p>	<p>1. If the country has not taken satisfactory steps to deal with the identified deficiencies after the Plenary has placed it under a regular follow-up process;</p> <p>2. The country is regarded as a non-complying country by Plenary.</p>
<p>Format of report</p>	<p>1. No later than two years after the adoption of the MER and every two years.</p>	<p>(1) Country to report every two years on actions taken to address the factors/deficiencies underlying any of the 40 + 9 Recommendations that are rated PC or NC;</p> <p>(2) However, due to weak AML/CFT systems in GIABA Member States, at the time of the adoption of the MER, the Plenary will apply expedited follow-up for member States and require the countries to report back within one year after the adoption of the MER.</p>	<p>1. During the follow-up process – where the country has not taken any satisfactory steps to deal with identified deficiencies</p>
<p>Steps in process</p>	<p>1. Written Report and progress made to address any of the 40+9 Recommendations rated PC or NC (including updated statistics)</p>	<p>1. Written Report and progress made to address any 40+9 Recommendations rated PC or NC (including updated statistics)</p>	<p>1. Written report to the Plenary on the steps taken to address deficiencies in the AML/CFT system and progress made to address any 40+9</p>

			Recommendations rated PC or NC
Circumstances	<p>1. Secretariat to review report and draft a short summary report;</p> <p>2. Discussion in Plenary depends on request of member or Secretariat</p>	<p>1- Review by the WGMEI;</p> <p>2- WGMEI to recommend to Plenary any action to be taken with regards to the country;</p> <p>3- WGMEI to send the report to the Plenary for discussion only if there are concerns about the progress made by the country.</p>	<p>1-WGMEI to propose to Plenary steps to be taken with non-complying members;</p> <p>2-Plenary to decide what action be taken such as:</p> <p>a) a letter could be sent from the GIABA Secretariat;</p> <p>(b) a high-level mission can be sent to the country;</p> <p>(c) Recommendation 21 - GIABA to issue a formal statement as recommended by Plenary;</p> <p>(d) Suspension of country as a GIABA member;</p> <p>(e) terminate membership;</p> <p>(f) Request FATF to apply sanctions at international level</p>
Removal from the process	Normally within 3 years		

Annex 5

Template for follow-up reports

This report will be prepared by the country and then submitted to GIABA two months before the plenary.

I. SUMMARY OF THE PROGRESS MADE BY COUNTRY SINCE THE ADOPTION OF THE MUTUAL EVALUATION REPORT (ADD DATE OF ADOPTION)

The country will explain when the onsite visit was conducted and a general overview of what has been done in the country to address the deficiencies highlighted in the MER since it was adopted by the Plenary. The country should also provide detailed information related to laws, regulations or other measures introduced to meet the deficiencies identified in the MER.

II. The country should describe any action taken or results flowing from the laws, regulations or measures that have been implemented.

III. The country should provide a description and analysis of the actions taken to address the deficiencies identified in the MER relevant to the Recommendations rated PC or NC in the table below.

IV. The country should explain any other future activities or programs that are planned towards addressing the deficiencies. (The national AML/CFT strategy or AML/CFT implementation plan should be attached to the follow-up report).

V. Attach an updated table of statistics for the items mentioned in Recommendation 32 including relevant documents, laws, regulations, suspicious transactions reports, ML/FT cases investigated, prosecuted as well as convictions and assets frozen, seized and confiscated.

Annex 6

AML/CFT—GUIDANCE NOTE TO FATF/FSRBs ON THE TIMING AND PREPARATION OF INPUTS FROM MUTUAL EVALUATIONS FOR THE FSAP AND OFC PROGRAMS

This guidance note is for FATF and FSRB evaluators to prepare the AML/CFT inputs that are a component of the IMF and World Bank Financial Sector Assessment Program (FSAP) and the IMF Offshore Financial Center (OFC) program. For the two programs, three AML/CFT inputs are required: (i) the key findings; (ii) the mutual evaluation report (MER); and (iii) the Report on the Observance of Standards and Codes (ROSC). In addition, FATF/FSRBs and the IMF/WB have agreed that the executive summary of all MERs should be submitted to the Fund/Bank in ROSC format for reference and possible use in future FSAP/OFC reports.

Introduction

In March 2004, the IMF and World Bank Boards agreed that an AML/CFT assessment, including a ROSC, shall be included in all financial sector assessments under the FSAP and OFC programs (see <http://www.imf.org/external/np/sec/pn/2004/pn0433.htm>). This decision was reaffirmed by the IMF Board on May 10, 2006 and the procedures for integrating FATF/FSRB evaluations into the FSAP process were modified as described in this paper. (See citation)

According to these Board decisions, either (i) the mutual evaluation prepared by the FATF/FSRBs; or (ii) the detailed assessment prepared by the Bank/Fund can be used for the purposes of the FSAP and OFC programs. The mutual evaluations and detailed assessments would both need to be prepared according to the most recent methodology (see <http://www.imf.org/external/np/aml/eng/2004/031604.pdf>) and, to the extent possible, be conducted within 18 months before or after the relevant FSAP/OFC assessment mission. Once an assessment under the most recent methodology has been conducted, every country should be reassessed approximately every five years. The Board also called on Fund staff, the FATF, FSRBs, and country authorities to engage as early as possible in the planning process to encourage greater

synchronization of assessment schedules and minimize scheduling conflicts.

REQUIRED INPUTS

Key Findings Document

The key findings document is required by the FSAP and OFC assessment teams in order to prepare the financial sector assessment reports. The key findings will be integrated into the FSSA/FSA and the OFC Volume I reports that are forwarded to the Fund and Bank Boards. The document may be prepared either by the FATF/FSRB or the FSAP/OFC assessment team. For the FSAP/OFC team to draft the key findings, it would be necessary that they have the AML/CFT ROSC or MER (in draft or final form).

The key findings document should be about 300-500 words depending on the significance of the findings. It would contain a discussion on the adequacy of (i) legal systems and related institutional measures; (ii) preventive measures for the financial sector; (iii) preventive measures for *designated non-financial businesses and professions* (DNFBPs); (iv) legal persons and arrangements and non-profit organizations and (v) national and international cooperation. The summary will be used by the FSAP/OFC mission chief in the preparation of the FSSA/OFC/FSA report. The FSAP/OFC mission chief retains ultimate responsibility for the FSSA/OFC/FSA reports, and may exercise some editorial discretion over the drafting of the key findings. In all cases, a footnote will indicate that the results on AML/CFT were based on a mutual evaluation carried out by the respective FATF/FSRB and whether a ROSC is available at the time of the preparation of the FSSA/OFC/FSA Report or that the key findings are based on a draft report. If a ROSC is not available, there should be an indication of the timing for when a ROSC can be anticipated.

Since the key findings would be included in the Board report, ideally they should be made available to the FSAP/OFC mission chief at least one week prior to the date that the report is to be issued to the Fund and Bank Boards or typically four weeks prior to Board discussion.

Mutual Evaluation Report

The Mutual Evaluation Report (MER), should be finalized within 18 months of the start of the relevant FSAP/OFC mission. The finalization of the report would be in accordance with the current practices used by the FATF/FSRBs,

which normally is that the reports are reviewed during the plenary discussions. In exceptional cases where unavoidable scheduling conflicts prevent an AML/CFT assessment from being completed within 18 months of the relevant FSAP or OFC mission, the AML/CFT assessment documentation can be submitted later as a supplement.

For some FSAP/OFC assessments, the FATF/FSRB will have previously carried out a mutual evaluation using the most current methodology prior to the FSAP/OFC mission. To ensure that the FSAP/OFC team has relatively current information on AML/CFT issues, the mutual evaluation mission should ideally have taken place within 18 months prior to the first FSAP/OFC mission date. Under no circumstances will a report more than five years old be acceptable and if there has been a significant deterioration of the AML/CFT environment in the jurisdiction since it was last assessed, Bank/Fund staff, the FATF/FSRB, and the country would seek to reach agreement to either bring a scheduled FATF/FSRB assessment forward or to conduct a Bank/Fund assessment.

Report on the Observance of Standards and Codes (ROSC)

A *ROSC* needs to be prepared by the FATF/FSRB based on the results of the MER. The ROSC should be prepared using the approved ROSC template (attached) by the FATF/FSRB. It should be finalized shortly following the adoption of the MER by a plenary. Before the ROSC can be finalized, it should be reviewed by the IMF/WB. This review will be pro forma, with IMF/WB staff looking to ensure that the tone and conclusions of the assessment are accurately reflected in the ROSC and that the ROSC template is respected. To provide for Bank/Fund review, the final MER and draft ROSC should be forwarded by electronic mail to the FATF/FSRB IMF/WB points of contact.

Annex 7

ROSC Template for FATF/FSRB-led Assessments

[October 20, 2006]

Country X: Report on Observance of Standards and Codes—FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism

Introduction

1. Paragraph 1 provides standard language that can be customized for individual ROSCs. Square brackets indicate where customized information is required. The entire ROSC should use consecutively numbered paragraphs and be no longer than 15 pages, including tables: “This Report on the Observance of Standards and Codes for the FATF 40 Recommendations for Anti-Money Laundering and 9 Special Recommendations Combating the Financing of Terrorism were prepared by the [Financial Action Task Force or FSRB]. The report provides a summary of the AML/CFT measures in place in [Country], the level of compliance with the FATF 40+9 Recommendations, and contains recommendations on how the AML/CFT system could be strengthened. The assessment is based on the information available at the time it was completed on [date of mission] and was produced using the 2004 Assessment Methodology. The views expressed in this document have been agreed by the [FATF or FSRB] and [Country], but do not necessarily reflect the views of the Boards of the IMF or World Bank.”

Executive Summary

2. For the Executive Summary, state the key findings of the detailed assessment. The Executive Summary should provide a clear assessment of the overall degree of observance of the standard and bring out the main strengths and weaknesses of arrangements in place, while avoiding a rating or “pass or

fail” approach. For subsequent sections, describe and assess country practices under the following groupings of the AML/CFT Methodology.

3. Comment separately on the key areas where there is less than full compliance and provide the main reasons for failure to achieve such compliance; indicate the authorities’ efforts in addressing identified weaknesses, as well as the potential impact of those efforts on the country’s overall level of observance of the standard if they proceed as envisaged. Include a prioritized list of key recommendations.

Legal Systems and Related Institutional Measures

4. [Insert text here]

Preventive Measures – Financial Institutions

5. [Insert text here]

Preventive Measures – Designated Non-Financial Businesses and Professions

6. [Insert text here]

Legal Persons and Arrangements & Non-Profit Organizations

7. [Insert text here]

National and International Co-operation

8. [Insert text here]

Other Issues

9. [Insert text here]

Table 1: Ratings of Compliance with FATF Recommendations

Forty Recommendations	Rating	Summary of factors underlying rating¹⁶
Legal systems		
1. Money laundering offence		•
2. Money laundering offence - Liability of Legal and natural persons		•
3. Confiscation and provisional measures		•
Preventive measures		
4. Secrecy laws consistent with the Recommendations		•
5. Customer due diligence		•
6. Politically exposed persons		•
7. Correspondent banking		•
8. New technologies & non face-to-face business		•
9. Third parties and introducers		•
10. Record-keeping		•
11. Unusual transactions		•
12. DNFBP–R.5, 6, 8–11		•
13. Suspicious transaction reporting		•
14. Protection & no tipping-off		•
15. Internal controls, compliance & audit		•
16. DNFBP–R.13–15 & 21		•
17. Sanctions		•
18. Shell banks		•
19. Other forms of reporting		

¹⁶ These factors are only required to be set out when the rating is less than Compliant.

20. Other NFBP & secure transaction techniques		•
21. Special attention for higher risk countries		•
22. Foreign branches & subsidiaries		•
23. Regulation, supervision and monitoring		•
24. DNFBP—regulation, supervision and monitoring		•
25. Guidelines & Feedback		•
Institutional and other measures		
26. The FIU		•
27. Law enforcement authorities		•
28. Powers of competent authorities		•
29. Supervisors		•
30. Resources, integrity, and training		•
31. National co-operation		•
32. Statistics		•
33. Legal persons—beneficial owners		•
34. Legal arrangements – beneficial owners		•
International Cooperation		
35. Conventions		•
36. Mutual legal assistance (MLA)		•
37. Dual criminality		•
38. MLA on confiscation and freezing		•
39. Extradition		•
40. Other forms of co-operation		•

Nine Special Recommendations		
SR.I Implement UN instruments		•
SR.II Criminalize terrorist financing		•
SR.III Freeze and confiscate terrorist assets		•
SR.IV Suspicious transaction reporting		•
SR.V International cooperation		•
SR.VI AML/CFT requirements for money/value transfer services		•
SR.VII Wire transfer rules		•
SR.VIII Non-profit organizations		•
SR.IX Cash Border Declaration & Disclosure		•

Compliant (C): the Recommendation is fully observed with respect to all essential criteria. **Largely compliant (LC):** there are only minor shortcomings, with a large majority of the essential criteria being fully met. **Partially compliant (PC):** the country has taken some substantive action and complies with some of the essential criteria. **Non-compliant (NC):** there are major shortcomings, with a large majority of the essential criteria not being met. **Not applicable (NA):** a requirement or part of a requirement does not apply, due to the structural, legal or institutional features of a country e.g. a particular type of financial institution does not exist in that country.

Table 2. Prioritized Key Recommendations to Improve the AML/CFT System

FATF 40+9 Recommendations	Key Assessor Recommendations (in order of priority within each section)
1. General	
2. Legal System and Related Institutional Measures	
Criminalization of Money Laundering (R.1, 2, & 32)	•
Criminalization of Terrorist Financing (SR.II & R.32)	•
Confiscation, freezing, and seizing of proceeds of crime (R.3 & 32)	•
Freezing of funds used for terrorist financing (SR.III & R.32)	•
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	•
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	•
3. Preventive Measures– Financial Institutions	
Risk of money laundering or terrorist financing	•
Customer due diligence, including enhanced or reduced measures (R.5–8)	•
Third parties and introduced business (R.9)	•
Financial institution secrecy or confidentiality (R.4)	•
Record keeping and wire	•

transfer rules (R.10 & SR.VII)	
Monitoring of transactions and relationships (R.11 & 21)	•
Suspicious transaction reports and other reporting (R.13, 14, 19, 25, & SR.IV)	•
Cross Border Declaration or disclosure (SR IX)	•
Internal controls, compliance, audit and foreign branches (R.15 & 22)	•
Shell banks (R.18)	•
The supervisory and oversight system– competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 25, & 32)	•
Money value transfer services (SR.VI)	•
4.Preventive Measures– Non-financial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	•
Suspicious transaction reporting (R.16)	•
Regulation, supervision, monitoring, and sanctions (R.17, 24, & 25)	•
Other designated non-financial businesses and professions (R.20)	•
5. Legal Persons and	

Arrangements & Non-profit Organizations	
Legal Persons–Access to beneficial ownership and control information (R.33)	•
Legal Arrangements– Access to beneficial ownership and control information (R.34)	•
Non-profit organizations (SR.VIII)	•
6. National and International Cooperation	
National cooperation and coordination (R.31 & 32)	•
The Conventions and UN Special Resolutions (R.35 & SR.I)	•
Mutual Legal Assistance (R.36, 37, 38, SR.V & 32)	•
Extradition (R. 39, 37, SR.V & R.32)	•
Other Forms of Cooperation (R. 40, SR.V & R.32)	•
7. Other Issues	
Other relevant AML/CFT measures or issues	

Annex 8

Authorities' Response

[Insert text here]